



## Telecom Decision CRTC 2025-132

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Reference: Part 1 application posted on 29 February 2024

Gatineau, 6 June 2025

*Public record: 8622-O108-202400704*

### **2621159 Ontario Inc., doing business as Neighbourhood Connect – Application for non-discriminatory and timely access on reasonable terms and conditions to three multi-dwelling units owned or operated by Bethlehem Housing and Support Services**

#### **Summary**

The Commission is taking action to help ensure that Canadians benefit from access to affordable and high-quality Internet services.

Through this decision, the Commission is continuing to help promote competition and increase choice for consumers in all types of dwellings. A competitive marketplace helps foster more innovative services and lower prices for telecommunications services.

2621159 Ontario Inc., doing business as Neighbourhood Connect (NHC), filed an application claiming that it is being denied timely access under reasonable terms and conditions to three multi-dwelling units (MDUs) owned or operated by Bethlehem Housing and Support Services (Bethlehem). NHC is seeking access to these buildings so that it can offer telecommunications services to residents, including Internet access.

NHC requested that the Commission grant relief by enforcing the MDU access condition. This requires building owners to provide access to an MDU on a timely basis and under reasonable terms and conditions to any telecommunications or Internet service provider wishing to serve an MDU's residents.

The Commission considers that Bethlehem has denied NHC access to the three MDUs on a timely basis. The Commission therefore directs Bethlehem and NHC to enter into good-faith negotiations for timely access under reasonable terms and conditions to the three MDUs.

The Commission will monitor the progress of these negotiations and if Bethlehem has not granted access to NHC by **4 September 2025**, the Commission will consider further intervention. The purpose of this approach is to motivate the parties to negotiate promptly, while at the same time mitigating the impact on residents.

## Background

1. In Telecom Decision 2003-45, the Commission set out its framework for access to multi-dwelling units (MDUs), such as apartment buildings and condominiums (the MDU access framework). In that decision, the Commission emphasized the importance of promoting competition and choice, regardless of the type of dwelling in which an end-user resides.
2. In the same decision, the Commission established the MDU access condition, which requires that all local exchange carriers (LECs) wishing to serve residents in an MDU can access end-users on a timely basis and under reasonable terms and conditions.<sup>1</sup>
3. In the decision, the Commission also established guidelines to assist building owners and LECs in negotiating just and expedient conditions of access to MDUs, including conditions relating to fees (e.g., fees that a building owner may reasonably charge the LEC to recover costs incurred), the installation of wiring and equipment, and liability (the Guidelines).

## Application

4. On 1 March 2024, the Commission received an application from 2621159 Ontario Inc., an Ontario-based Internet service provider (ISP) doing business as Neighbourhood Connect (NHC). In its application, NHC indicated that it had made multiple access requests to install fibre facilities and provide telecommunications services to residents in three MDUs owned or operated by Bethlehem Housing and Support Services (Bethlehem): 58 Welland Avenue, 111 Church Street, and 151 James Street in St. Catharines, Ontario (collectively, the MDUs). NHC indicated that it was being denied timely access to the MDUs under reasonable terms and conditions because Bethlehem had refused all its access requests. NHC also indicated that this has affected residents' ability to choose an alternative telecommunications service provider (TSP).
5. NHC requested that the Commission enforce the MDU access condition until access is granted to the MDUs by imposing accelerated regulatory measures under section 24 of the *Telecommunications Act* (the Act).
6. The Commission received an intervention from Bethlehem regarding NHC's application.

## Issues

7. The Commission has identified the following issues to be addressed in this decision:
  - Should the MDU access condition apply in this case?
  - Is NHC being denied timely access to the MDUs under reasonable terms and conditions?

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<sup>1</sup> In Telecom Regulatory Policy 2021-239, the Commission extended the MDU access condition and associated obligations to all carrier Internet service providers.

- What action, if any, should the Commission take to ensure that NHC obtains timely access to the MDUs under reasonable terms and conditions?

### **Should the MDU access condition apply in this case?**

#### **Positions of parties**

8. Bethlehem submitted that the nature of its mandate and its buildings is an important factor that the Commission should consider in the context of applying the MDU access condition. Bethlehem stated that it is not a regular MDU landlord. Bethlehem stated that it is a government-funded non-profit organization that houses financially vulnerable people, sometimes only temporarily, and it must maintain very strict security access to the public as well as to vendors/contractors.
9. Given the nature of Bethlehem's operations, it was of the view that the Commission should not apply the MDU access condition to its MDUs. Bethlehem noted that a large portion of its clientele do not rent units and do not purchase (or sign contracts for) their own telecommunications services; these services are provided by Bethlehem as part of the temporary housing service. Out of the 194 units in the MDUs, only 55 market-rate rental apartments would qualify as households that independently purchase telecommunications services. In addition, Bethlehem has not received any requests from residents for service from any TSP other than the two already providing services to the MDUs.<sup>2</sup>
10. In response to a Commission request for information, Bethlehem submitted that it had made the following offer to NHC during a meeting in September 2024:
  - An Internet services survey will be undertaken with all residents in the coming months to determine if there is a need for a third TSP in the MDUs.
  - If there is such a need, a request for proposals will be initiated to find one other TSP, at which time NHC will be welcome to apply.
  - If more than one resident in a MDU requests NHC's services specifically, Bethlehem will consider an access agreement with NHC for that building.

#### **Commission's analysis**

11. In Telecom Decision 2003-45, the Commission stated that all end-users should have the right to select the TSP of their choice, regardless of the type of dwelling they reside in. To accomplish this goal, MDU owners are required to provide timely access under reasonable terms and conditions to TSPs that wish to serve their buildings.
12. The Commission acknowledges Bethlehem's arguments regarding security, but these do not constitute a reason to exempt Bethlehem from the MDU access framework. Bethlehem may

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<sup>2</sup> Bell Canada and Cogeco Connexion Inc. (Cogeco)

however propose terms and conditions that it deems reasonable, including any necessary protections for the safety of its residents, and negotiate until both parties agree.

13. Fifty-five units in the MDUs have residents who purchase telecommunications services independently, and those residents would benefit from the competitive choice of an additional TSP. Moreover, the Commission considers that Bethlehem's offer to survey residents to determine whether there is sufficient demand to justify access is contrary to the MDU access framework.
14. Bethlehem did not provide sufficient evidence to support its argument that the nature of its mandate should exempt it from the MDU access condition. Therefore, Bethlehem's arguments do not justify NHC being denied access to the MDUs.
15. The Commission considers that TSPs should be left to make decisions regarding their business plans and network expansion and whether the 55 market-rate rental apartments justify access efforts and equipment installation costs. The Commission also considers that Bethlehem's clientele may benefit from more competition since competition helps foster more innovative services and lower prices for telecommunications services.

#### **Conclusion**

16. In light of the above, the Commission finds that the MDU access condition applies to Bethlehem.

#### **Is NHC being denied timely access to the MDUs under reasonable terms and conditions?**

##### **Positions of parties**

17. NHC indicated that it made multiple access requests to Bethlehem beginning in January 2020, including during the construction phase of the MDUs, but Bethlehem refused these requests.
18. Bethlehem submitted that it had not denied access to NHC, that NHC had made unreasonable requests, and that NHC had failed to clarify the nature of the access it was seeking. Bethlehem indicated that it remained open to discussing suitable access arrangements for the MDUs.
19. Bethlehem submitted that NHC required access to individual units to install its facilities and that it did not agree to such access because of the security requirements of its mandate. Bethlehem stated that the two TSPs already on-site, Bell Canada and Cogeco Connexion Inc. (Cogeco), provide sufficient competition and choice, and that no further access should be given to other vendors.<sup>3</sup>
20. Bethlehem submitted that as a non-profit organization, it does not have the capacity to regulate, supervise, and coordinate multiple access agreements, including installation requests, security, and different telecommunications network installations. Bethlehem had concerns regarding the safety and unauthorized use of Bell Canada's and Cogeco's facilities

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<sup>3</sup> Bethlehem noted that Bell Canada and Cogeco have full fibre facilities connected to all units of the MDUs.

by NHC if it were granted access. Bethlehem was also concerned that numerous other TSPs would follow in NHC's footsteps and request access, which would place additional undue administrative burden on Bethlehem.

21. In reply, NHC submitted that there have been no discussions with Bethlehem about its practices and procedures. NHC also submitted that it only requires access to a unit when a resident orders service, which directly respects the privacy and needs of residents. NHC added that its equipment installation is generally limited to the use of the existing main terminal room and riser systems.
22. NHC also disagreed with Bethlehem's submission that consumer choice is satisfied. According to NHC, between 20 and 30 residents have requested its services, but residents have been unable to order them due to NHC being denied access to the MDUs.
23. Finally, in response to Bethlehem's concerns regarding Bell Canada's and Cogeco's existing facilities in the MDUs, NHC noted that it can use in-building wire in some cases and will determine the best route in accordance with industry best practices and the Commission's rules.

#### **Commission's analysis**

##### ***Bethlehem's argument regarding the security of the MDUs***

24. Regarding access to individual units, the MDU access framework does not include a requirement for MDU owners to provide a TSP with unconditional access to individual units. Moreover, a TSP is generally only granted access to individual units if a resident has requested its services.
25. There is no evidence that the provisions NHC would like to negotiate under an MDU access agreement would require Bethlehem to help the TSP enter a unit to install equipment without the resident's prior consent. Based on information from NHC on the record of this proceeding, the Commission is of the view that since NHC would enter into a separate service agreement with each resident requesting service, it would be NHC's responsibility to arrange access to an individual unit directly with the resident.
26. Bethlehem did not provide sufficient evidence to support its claim that NHC represents a security risk to its clientele. Nonetheless, Bethlehem's security concerns could be effectively addressed through a negotiated access agreement with NHC, as discussed in Telecom Decision 2003-45, which states the following:

164. The Commission considers that building owners should be compensated for any costs reasonably incurred for providing additional services, such as the approval of plans, safety and security measures and other similar services reasonably required in connection with the installation and operation of telecommunications facilities.

***Bethlehem's arguments regarding the management of multiple access agreements and telecommunications facilities***

27. The Commission notes that NHC wishes to install its own fibre equipment, and that if it needs to use existing in-building wire, it has agreed to follow industry best practices. NHC's access to other TSPs' infrastructure in the MDUs is a matter to be negotiated between the companies, and it would not be appropriate for Bethlehem to manage these negotiations.
28. The Commission acknowledges Bethlehem's concerns regarding interest by a large number of other TSPs if NHC is granted access, and the related administrative burden or lack of space for telecommunications equipment. No evidence was provided to indicate that TSPs other than NHC have requested access to the MDUs.
29. If other TSPs did request access, Bethlehem's concerns about excess administrative burden could be addressed through a negotiated access agreement with reasonable terms and conditions, as discussed in paragraph 160 of Telecom Decision 2003-45. Under the MDU access framework, Bethlehem would be within its rights to charge NHC rent, occupancy fees, or fees for consumption of utilities associated with the operation of its equipment in the MDUs, provided that such fees are reasonable and levied in accordance with the Guidelines. Negotiated access agreements with clauses for security could also be based on Bethlehem's existing access agreements with Bell Canada and Cogeco, which Bethlehem considers to be appropriate vendors.
30. In light of submissions from Bethlehem and NHC, the Commission is of the view that Bethlehem has not been negotiating timely access under reasonable terms and conditions with NHC. Although Bethlehem held a meeting with NHC to discuss the situation in September 2024, it appears that Bethlehem has refused to negotiate access to the MDUs.
31. In addition, the MDU access framework is intended to benefit end-users by promoting competition in MDUs and giving smaller TSPs timely access on reasonable terms and conditions to offer their services. Accordingly, the Commission considers that MDU access should not be conditional on favourable survey results from residents or any other process developed by MDU owners.

**Conclusion**

32. In light of the above, the Commission finds that Bethlehem is denying NHC timely access to the MDUs under reasonable terms and conditions.

**What action, if any, should the Commission take to ensure that NHC obtains timely access to the MDUs under reasonable terms and conditions?**

**Positions of parties**

33. NHC requested that the Commission enforce the MDU access condition until access is granted, under section 24 of the Act, and in the following, accelerated, manner:
  - Within 15 days following the date of the Commission's decision, any other LEC or carrier ISP already in the MDUs will not be permitted to provide services to

any new resident of the MDUs and will not be permitted to provide services to a current resident who is not an existing customer of the applicable service provider.

- Within 30 days following the date of the Commission's decision, any LEC or carrier ISP present in the MDUs will not be permitted to modify or upgrade the services being provided to a current resident.
- Within 45 days following the date of the Commission's decision, the Commission will explore all regulatory options available to it, including issuing an order under section 42 of the Act and issuing a decision that could result in all LECs and carrier ISPs present in the MDUs not being permitted to provide any services to the residents.

### **Commission's analysis**

34. Since Bethlehem has not been responsive to NHC's requests for access, the Commission considers that its intervention is needed.
35. The Commission recognizes that Bethlehem operates as a non-profit organization and that many of its residents are financially vulnerable or at risk of homelessness. The Commission's goal is to avoid any disruption to telecommunications services for Bethlehem's residents, which could occur if additional regulatory measures are applied to enforce the MDU access condition. The Commission therefore encourages both parties to try to resolve the dispute expediently through negotiations to minimize any potential harm to residents.
36. Further to the above, the Commission is of the view that it would be appropriate for both parties to enter into good-faith negotiations for a period of 90 days. If Bethlehem has not granted NHC access to the MDUs under reasonable terms and conditions by the end of that period, the Commission will consider imposing additional regulatory measures. In addition, the Commission may take action before the end of the 90 days if it considers that there has been no progress in the negotiations between the parties for access to the MDUs.

### **Conclusion**

37. In light of all of the above, the Commission directs Bethlehem and NHC to enter into good-faith negotiations for access to the MDUs.
38. The Commission also directs Bethlehem and NHC to submit negotiation progress reports to the Commission by **7 July 2025, 5 August 2025, 4 September 2025**. These reports may be brief, but should include the dates of the negotiations, the unresolved issues, and a short description of any difficulties encountered during negotiations.
39. If Bethlehem does not grant NHC access under reasonable terms and conditions by **4 September 2025**, the Commission may apply the following regulatory measures:

- By **19 September 2025**, any other LEC or carrier ISP already in the MDUs will not be permitted to provide services to any new resident of the MDUs and will not be permitted to provide services to a current resident who is not an existing customer of the applicable service provider.
- By **6 October 2025**, any LEC or carrier ISP present in the MDUs will not be permitted to modify or upgrade the services being provided to a current resident.
- By **20 October 2025**, the Commission will explore all regulatory options available to it, including issuing an order under section 42 of the Act and issuing a decision that could result in all LECs and carrier ISPs present in the MDUs not being permitted to provide any services to the residents.

40. In addition, the Commission may take action before the end of the 90 days if it considers that there has been no progress in the negotiations between the parties for access to the MDUs.

Secretary General

#### **Related documents**

- *Access to in-building wire in multi-dwelling units*, Telecom Regulatory Policy CRTC 2021-239, 27 July 2021
- *Provision of telecommunications services to customers in multi-dwelling units*, Telecom Decision CRTC 2003-45, 30 June 2003